

A school for the study of ballet which offers a formal college preparatory program at the high school level and has a regular curriculum, a regular faculty and a regular enrollment of students in attendance at the place where its educational activities are carried on, is an educational organization within the meaning of section 170(b)(1)(A)(ii) of the Internal Revenue Code of 1954 and the special limitation provided in section 170(b)(1)(A) of the Code is applicable to contributions made to it by individual donors.

Advice has been requested whether the nonprofit organization described below is an educational organization of the type described in section 170(b)(1)(A)(ii) of the Internal Revenue Code of 1954 so that contributions to it are subject to the special limitation provision of section 170(b)(1)(A) of the Code.

The organization offers regular courses of instruction and training in ballet at the beginning, intermediate and advanced levels. There is a regular staff of ballet instructors and there is also a regularly enrolled body of ballet pupils. For those advanced ballet students who are at the senior high school level academically, and who intend to seek a career in ballet, the organization also conducts an academic school offering a formal college preparatory program which is coordinated with their ballet training. The academic school has a regular curriculum, a regular faculty, and a regularly enrolled body of students, comprised of a total of twenty individuals in each of the tenth, eleventh, and twelfth grades. The length of the academic session is thirty-six weeks running from September to June. Examinations are given at the end of each session and diplomas are issued upon graduation. The ballet school and the academic school which are conducted by the organization together form one integral system of education.

The instant organization is exempt from Federal income taxation under section 501(c)(3) of the Code, and contributions made to it are deductible by individual donors as provided in section 170 of the Code.

Section 170(b)(1)(A) of the Code provides for an additional deduction not exceeding 10 percent of an individual's adjusted gross income for contributions made to certain organizations, including an educational organization, described in section 170(b)(1)(A)(ii) of the Code.

Section 1.170-2(b)(3)(i) of the Income Tax Regulations provides that an 'educational organization' within the meaning of section 170(b)(1)(A) of the Code is one whose primary function is the presentation of formal instruction and which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on.

Although many of the organization's ballet students do not attend the academic school, the organization is, nevertheless, an educational organization within the meaning of section 170(b)(1)(A)(ii) of the Code since its primary function is the presentation of formal instruction, it normally maintains a regular faculty and curriculum, and normally has a regularly enrolled body of pupils and students in attendance at the place where its educational activities are regularly carried on.

Accordingly, the special limitation provision of section 170(b)(1)(A) of the Code, allowing an additional deduction not exceeding 10 percent of an individual's adjusted gross income, is applicable to contributions made by individual donors to the instant organization.